

Invenergy

1401 17th St | Suite 1100 | Denver, Colorado 80202
T 303-557-4494 | F 303-797-5491

November 20, 2018

New Mexico Oil Conservation Division
Attn: Florene Davidson, Commission Clerk
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

VIA FEDERAL EXPRESS OVERNIGHT

RE: Objection to Case No. 16441 – Application of NGL Water Solutions Permian, LLC, for approval of salt water disposal well in Lea County, New Mexico

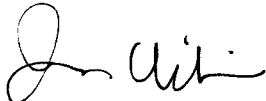
Dear Ms. Davidson,

We, Invenergy Solar Development LLC (“**Invenergy**”), would like to object to the approval of Case No. 16441 regarding NGL Water Solutions Permian, LLC’s (“**NGL**”) application for a salt water disposal well located in Section 14, Township 24 South, Range 33 East, NMPM, Lea County, New Mexico (the “**Property**”).

Invenergy is the surface lessee under a recorded lease and easement agreement (the “**Lease**”), giving Invenergy the exclusive right to use the surface of the Property for solar development. A copy of the recorded memorandum of Lease is included with this letter. NGL is the owner of the surface estate of the Property, and NGL acquired the surface interest with full knowledge that the Lease was in effect. NGL, as owner of the surface estate, is the successor lessor under the Lease and thus, is thereby bound by the terms of the Lease.

Invenergy objects to Case No. 16441 because (1) Invenergy did not receive notice from NGL of the October 18, 2018 hearing on Case No. 16441, (2) Invenergy has not had an opportunity to be heard at the hearing, and (3) NGL cannot, pursuant to the terms of the Lease, disturb Invenergy’s right to use the surface of the Property by operating a salt water disposal well on the Property. As a result, Case No. 16441 should be denied and dismissed. Alternatively, if Case No. 16441 has already been approved, the permit for injection should be revoked.

Best,



James Williams
Vice President, Renewable Development
303-557-4488 | 512-922-0567 (M)
Attached: Lease

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EXHIBIT D
Form of Recording Memorandum

After recording return to:
Invenergy Solar Development LLC
c/o Invenergy LLC
One South Wacker Drive
Suite 1800
Chicago, Illinois 60606
ATTN: Land Administration

THIS SPACE FOR RECORDERS USE ONLY

MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT

THIS MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT (this "Memorandum"), is made, dated and effective as of November 30, 2016 (the "Effective Date"), between MARK MCCLOY AND ANNETTE MCCLOY TRUSTEES OF THE MARK MCCLOY AND ANNETTE MCCLOY REVOCABLE LIVING TRUST OF 2014, DATED OCTOBER 15, 2014 (together with its successors, assigns and heirs, "Owner"), whose address is P.O. Box 795, Tatum, New Mexico 88267, and INVENERGY SOLAR DEVELOPMENT LLC a Delaware limited liability company (together with its transferees, successors and assigns, "Grantee"), whose address is One South Wacker Drive, Suite 1800, Chicago, IL 60606, with regards to the following:

1. Owner and Grantee did enter into that certain SOLAR LEASE AND EASEMENT AGREEMENT dated November 30, 2016 (the "Agreement"), which affects the real property located in Lea County, New Mexico, as more particularly described in Exhibit A attached hereto (the "Property"). Capitalized terms used and not defined herein have the meaning given the same in the Agreement.

2. The Agreement grants, and Owner hereby grants, to the extent permitted by applicable law, Grantee, among other things, (a) the exclusive right to develop and use the Property, including, without limitation, for converting solar energy into electrical energy and collecting and transmitting the electrical energy so converted; (b) an exclusive easement to capture, use and convert the unobstructed solar flux over and across the Property from all angles and from sunrise to sunset at the Property during each day of the Term; and (c) an exclusive easement for electromagnetic, audio, visual, glare, electrical or radio interference attributable to the Solar Facilities or Site Activities. The Agreement contains, among other things, certain Owner and third party use and development restrictions on the Property.

3. The Agreement shall be for an initial term of seven (7) years, an operations term of twenty-five (25) years and one extended term of twenty-four (24) years if the terms and conditions of the Agreement are met.

4. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Owner and Grantee executed and are recording this Memorandum for the purposes set forth herein and for providing constructive notice of the Agreement and Grantee's rights thereunder and hereunder. The terms, conditions and covenants of the Agreement

are set forth at length in the Agreement and are incorporated herein by reference as though fully set forth herein. This Memorandum shall not, in any manner or form whatsoever, alter, modify or vary the terms, covenants and conditions of the Agreement.

5. This Memorandum shall also bind and benefit, as the case may be, the heirs, legal representatives, assigns and successors of the respective parties hereto, and all covenants, conditions and agreements contained herein shall be construed as covenants running with the land to the extent consistent with applicable law.

6. Owner shall have no ownership, lien, security or other interest in any Solar Facilities installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Solar Facilities at any time.

7. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

[signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

OWNER:

MARK MCCLOY AND ANNETTE MCCLOY
REVOCABLE LIVING TRUST OF 2014,
DATED OCTOBER 15, 2014

By: Mark McCloy

Name: Mark McCloy

Title: trustee

By: Annette McCloy

Name: Annette McCloy

Title: trustee

GRANTEE:

INVENERGY SOLAR DEVELOPMENT LLC

By: Michael Baird

Name: Michael Baird

Title: Vice President

ACKNOWLEDGMENT OF OWNER

STATE OF NEW MEXICO)
) SS.
COUNTY OF LEA)

Personally came before me this 30 day of November, 2016, by Mark McCloy who executed the foregoing instrument as Trustee *of the Mark McCloy and Annette McCloy Revocable Living Trust of 2014, dated October 15, 2014*, and acknowledged the same.



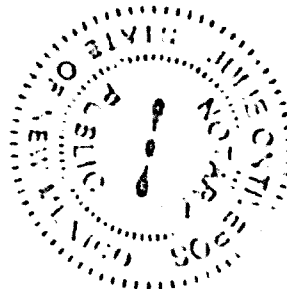
(SEAL)

Name: Julie Ontiveros
Notary Public, State of New Mexico
My Commission Expires: 5-19-2018

ACKNOWLEDGMENT OF OWNER

STATE OF NEW MEXICO)
) SS.
COUNTY OF LEA)

Personally came before me this 30th day of November, 2016, by Annette McCloy who executed the foregoing instrument as Trustee *of the Mark McCloy and Annette McCloy Revocable Living Trust of 2014, dated October 15, 2014*, and acknowledged the same.



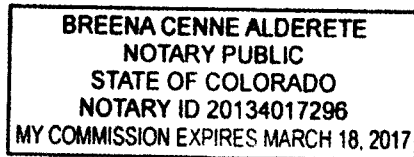
(SEAL)

Name: Julie Ontiveros
Notary Public, State of New Mexico
My Commission Expires: 5-19-2018

ACKNOWLEDGMENT OF GRANTEE

STATE OF Colorado)
COUNTY OF Arapahoe) SS.

Personally came before me this 16 day of December, 2016,
Michael Baird who executed the foregoing instrument as Vice President of
Invenergy Solar Development LLC and acknowledged the same.



(SEAL)

Name:

Notary Public, State of

My Commission Expires:

Breena Cenne Alderete

Colorado

March 18, 2017

ACKNOWLEDGMENT OF GRANTEE

STATE OF _____)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me this ____ day of _____,
20__, by _____ as _____ of *Invenergy Solar
Development LLC, a Delaware, limited liability company.*

My commission expires: _____

Witness my hand and seal:

Notary Public

EXHIBIT A
Description of the Property

County of Lea, State of New Mexico

The Surface Estate Only Of The Following Described Acreage:

Owner	Parcel #	Section	Township	Range	Acreage
Mark McCloy and Annette McCloy Revocable Living Trust of 2014, dated October 15, 2014	4940212112255	13 W2W2	24	33	117.43
Mark McCloy and Annette McCloy Revocable Living Trust of 2014, dated October 15, 2014	4000516950001	11	24	33	640.00
Mark McCloy and Annette McCloy Revocable Living Trust of 2014, dated October 15, 2014	4000516950004	14	24	33	627.96
				Total:	1,385.89

STATE OF NEW MEXICO
COUNTY OF LEA

FILED
At 11:34 o'clock A M

MAR 20 2017

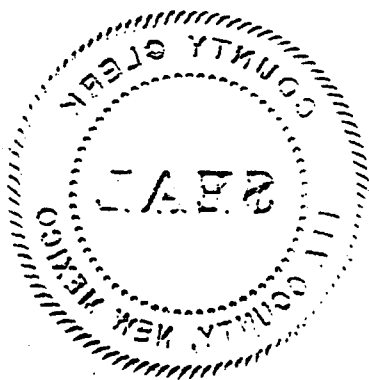
Recorded in Book 2091 Page 541

Keith Manes, Lea County Clerk

By [Signature] Deputy



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STATE OF NEW MEXICO
COUNTY OF LEA
FILED
At _____ o'clock _____ M

MAR 20 2017

Recorded in Book _____ Page _____
Book Number, Lea County Clerk
By _____ Deputy

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